

ARTICLE VIII. REGULATION OF HOURS OF OPERATION FOR CONSTRUCTION ACTIVITY AND GASOLINE-POWERED MAINTENANCE EQUIPMENT*

Sec. 15-100. Purpose.

In accordance with adopted goals and policies of the general plan which call for "... a noise environment that maintains a healthy living environment; fosters relaxation and recreation; is conducive to the work environment; and provides pleasant living conditions," and calls for "amending the Belmont Municipal Code... to limit construction hours and require noise mitigation of construction equipment adjacent to noise sensitive areas." It is the purpose of this article to promote the health, safety and welfare of the public by:

- (1) Declaring construction activity and certain maintenance equipment operation outside of given hours as generating noise and sound levels that are excessive and unreasonable, in accordance with the noise compatibility guidelines in the city's noise element; and
- (2) Prohibiting such excessive and unreasonable noises during those time periods; and
- (3) Authorizing the imposition of special abatement procedures and fines to enforce the city's policies and regulations regarding violations of the provisions herein.

(Ord. No. 953, § 1, 9-26-00)

Sec. 15-101. Definitions.

(a) "*Construction activity noise*" shall mean any noise producing activity subject to regulation by a grading permit or building permit including but not limited to start-up of machines or equipment other than automobiles and pickup trucks, delivery of materials or equipment, cleaning or maintenance of machines or equipment, or any

***Editor's note**—Section 1 of Ord. No. 938, adopted Nov. 24, 1998, amended Art. VIII in its entirety and enacting similar new provisions as herein set out. Formerly, such provisions derived from § 1 of Ord. No. 934, adopted Aug. 25, 1998. Subsequently, Ord. No. 953, § 1, adopted Sept. 26, 1998, amended art. VIII, §§ 15-100—15-103, in their entirety to read as herein set out. See the Code Comparative Table.

hammering, drilling, sawing or similar noise-producing construction activity conducted outside of a completely enclosed building or inside of a partially constructed building or building addition.

(b) "*Gasoline-powered maintenance equipment noise*" shall mean any leaf blower, lawnmower, soil turner, trimmer, or similar device powered by fossil fuel.

(Ord. No. 953, § 1, 9-26-00)

Sec. 15-102. Regulations.

(a) Construction activities are subject to the following regulations:

- (1) *Construction activity noise*. All construction and related activities which require a city building permit shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and the following holidays: New Year's Day, President's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. All gasoline-powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.

- (2) *Gasoline-powered maintenance equipment noise*. All gasoline-powered equipment utilized for maintenance activities shall be allowed only between the hours of 8:00 a.m. and sunset, Monday through Friday, and between the hours of 10:00 a.m. and sunset on Saturdays, Sundays, and Holidays. No gasoline-powered equipment activities shall be allowed outside of the aforementioned hours. All gasoline-powered equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.

(3) *Exceptions.* The following activities are not subject to the regulations of this article:

- a. Emergency construction, clean-up, maintenance activities approved by a city department.
- b. Capital improvement projects if the city council, at the time of advertising for bids, allows for a construction schedule which would provide for work outside the hours authorized by this article.
- c. City may respond to emergencies as an appropriate exercise of the police power to protect health, safety and welfare of the citizens and property in the city. The city will, if timing allows, provide notice to properties immediately adjacent to the emergency prior to commencement of this work.

(Ord. No. 953, § 1, 9-26-00)

(2) A fine of two hundred dollars (\$200.00) for a second violation within one (1) year.

(3) A fine of five hundred dollars (\$500.00) for a third violation within one (1) year.

(c) *Cumulative remedies.* The remedies provided herein shall be cumulative and not exclusive.

(d) *Citation authority.* Those persons holding the positions of city manager, director of planning and community development, building official, police officer, or designees thereof, are hereby designated as having citation authority under the provisions of this section for violations established herein.

(Ord. No. 953, § 1, 9-26-00)

Sec. 15-103. Enforcement.

(a) *Civil penalty for violation.* The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this chapter is hereby declared to be unlawful and a public nuisance. The city attorney of said city shall, upon order of the city council, immediately commence action or proceeding for the abatement of, and shall apply to such courts as may have jurisdiction to grant such relief as shall abate, any noise level contrary to the provisions of this chapter. Any noise level exceeding the limits specified in this chapter shall be deemed prima facie evidence of a violation of the provisions of this chapter and are subject to the penalties established below.

(b) *Infraction penalty for violation.* Except as specifically stated elsewhere, any violation of the provision of this chapter shall be punishable as an infraction, the penalty for which shall be as follows, after the issuance of one (1) written warning for the first violation:

- (1) A fine of one hundred dollars (\$100.00) for a first violation.